

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION**

In the Matter of:	)	
	)	
Town of Scotia Company, LLC	)	Complaint No. R1-2011-0047
P.O. Box 245	)	for
Scotia, CA 95565	)	Administrative Civil Liability
	)	
Attn: Mr. Frank Bacik	)	
Vice President, Legal Affairs	)	

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This Administrative Civil Liability Complaint (Complaint) is issued to the Town of Scotia Company, LLC (Discharger) to assess administrative civil liability for discharges from its Wastewater Treatment Plant (WWTP) in violation of provision of law for which the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) must impose mandatory minimum penalties pursuant to California Water Code (CWC) Section 13385 subdivision (h). The Complaint alleges 8 effluent limit violations subject to Mandatory Minimum Penalties (MMPs) under CWC section 13385 (h) and (i). The violations cited herein occurred from October 1, 2008 through October 30, 2010 and are specifically listed in Attachment A, which is incorporated into this Complaint by reference. During this period, the Discharger was subject to the waste discharge requirements established in Order No. R1-2006-0020, NPDES Permit No. CA 0006017.

The Assistant Executive Officer of the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) hereby gives notice that:

1. The Discharger is alleged to have violated provisions of law for which the Regional Water Board must impose mandatory minimum penalties under CWC section 13385 subdivision (h) and (i). The Complaint proposes to assess \$24,000 in mandatory minimum penalties for the violations described herein.
2. This Complaint is issued under authority of CWC section 13323.
3. A hearing concerning this Complaint may be held before the Regional Water Board within ninety (90) days of the date of issuance of this Complaint unless, pursuant to CWC section 13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Water Board's regular meeting on June 23, 2011 in the Regional Water Board hearing room, 5550 Skylane Blvd. Suite A, Santa Rosa, CA. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Water Board. An agenda for the meeting will be available at

[http://www.waterboards.ca.gov/northcoast/board\\_info/board\\_meetings/](http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/) not less than 10 days before the hearing date.

4. If a hearing is held on this matter, the Regional Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

#### **STATEMENT OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS APPLICABLE TO THE DISCHARGER:**

The Discharger is required to comply with the following:

5. Order No. R1-2006-0020 includes the following effluent limitations:

<b>Parameter</b>	<b>Units</b>	<b>Monthly Average</b>	<b>Weekly Average</b>	<b>Maximum Daily</b>
BOD (5day @ 20° C)	mg/l	30		
Maximum pH			8.5	
Chromium, Total	mg/l	0.2		0.2
Zinc, Total	mg/l	1.0		1.0

Order No. R1-2006-0020 includes limitations for 126 Priority Pollutants of which the following were violated:

<b>Parameter</b>	<b>Units</b>	<b>Monthly Average</b>	<b>Weekly Average</b>	<b>Maximum Daily</b>
Copper	mg/l	10		
Chloroform	ug/l	0.5		

#### **ALLEGED VIOLATIONS OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS APPLICABLE TO THE DISCHARGER**

6. **Violation No. 1:** The Discharger's self monitoring reports for the Complaint Period document 12 effluent limit exceedances, detailed in Attachment A.

#### **FACTUAL BASIS FOR THE ALLEGED VIOLATIONS**

The following evidence supports the alleged violations described above:

7. The Discharger owns and operates a privately owned waste water treatment facility (WWTF) located in the Town of Scotia, California, adjacent to the Eel River. The WWTF is regulated by Order No. R1-2006-0020, adopted by the Regional Water

Board on June 29, 2006. Order No. R1-2006-0020 includes effluent and receiving water limitations, discharge prohibitions and compliance provisions, the specifics of which are discussed in more detail above. The Discharger also owns and operates a steam electric power plant (Power Plant).

8. The WWTF consists of a collection system, screening, grinding, grit removal, a primary clarifier, a redwood trickling filter, a secondary clarifier, a chlorine contact chamber, three treatment/polishing ponds and a sludge digester, providing secondary treatment.
9. During the period of October 1, 2008 through October 30, 2010, the Discharger's monthly self monitoring reports documented 12 effluent limit violations (detailed in Attachment A).

#### **WATER CODE PROVISIONS UPON WHICH LIABILITY IS BEING ASSESSED DUE TO NON-COMPLIANCE WITH APPLICABLE REQUIREMENTS**

10. CWC section 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.
11. CWC section 13385(i)(1), requires the Regional Water Board to assess a mandatory minimum penalty of \$3,000 for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
  - (A) Violates a waste discharge requirement effluent limitation;
  - (B) Fails to file a report pursuant to CWC section 13260;
  - (C) Files an incomplete report pursuant to CWC section 13260; or
  - (D) Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations defined by section 13385(i)(1) are referred to as chronic violations in this Complaint. The maximum amount of administrative civil liability assessable pursuant to CWC section 13385 subdivision (c) is \$10,000 per day of violation.

12. The Regional Water Board may choose to assess discretionary penalties pursuant to CWC section 13385 subdivision (c) in lieu of assessing mandatory minimum penalties.

13. If the Regional Water Board decides to impose discretionary penalties, the Prosecution Team reserves the right to seek an increase in the civil liability amount, at the very least, to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

#### **PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

14. The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of \$24,000 for the violations specifically identified in Attachment A to this Complaint.
15. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
16. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
17. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

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April 6, 2011

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Luis G. Rivera  
Assistant Executive Officer  
Regional Water Board Prosecution Team